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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,113	05/24/2001	Jeffrey T. Makoff	POET-400	3042

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STALLMAN & POLLOCK LLP  
SUITE 2200  
353 SACRAMENTO STREET  
SAN FRANCISCO, CA 94111

EXAMINER

SHERR, CRISTINA O

ART UNIT PAPER NUMBER

3621

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/865,113

Applicant(s)

MAKOFF ET AL.

Examiner

Cristina Owen Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is in response to the applicant's amendment filed November 18, 2004. Claims 1-57 are pending in this case.

***Specification***

2. The abstract newly filed in this case is acknowledged.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-57 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18, 29-37, 38-50, and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Force (US 6,704,716B1) in view of Johnston (US 5,546,528A).

6. Regarding claims 1, 29, 38, 55; and 56 -

Force discloses a method of providing a customer remote access to a group of editors through a central provider with the customer, provider and editors being linked by a computer network, said customers requiring modification of digital images, said method comprising the steps of transferring from the customer to the provider the digital image along with the customer's instructions for modifying the digital image; selecting an editor to perform the modifications; transferring the digital image and the associated

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instructions to the selected editor; and providing the customer with access to the digital image back after the modifications have been made by the editor (e.g. col 3 ln 9-62).

7. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another network. Further, Johnston, does disclose, inter alia, graphics and art. (e.g. col 2 ln 43-col 3 ln 3). It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to make the graphic art process more user-friendly.

8. Regarding claims 2, 30, and 39 -

Force discloses the method as recited in claim 1 wherein the instructions are in the form of typed text (e.g. col 3 ln 29-35).

9. Regarding claim 3 -

Force discloses the method as recited in claim 1 wherein the instructions are in the form of graphics overlaid on the digital image (e.g. col 3 ln 29-35).

10. Regarding claim 4, 46 -

Force discloses the method as recited in claim 1 wherein the selection of the editor is made via a bidding process (e.g. col 3 ln 16-19).

11. Regarding claim 5 -

Force discloses the method as recited in claim 4 wherein the provider selects the editor based on the bids (e.g. col 3 ln 16-19).

12. Regarding claim 6, 47

Force discloses the method as recited in claim 4 wherein the customer selects the editor based on the bids (e.g. col 3 ln 16-19).

13. Regarding claim 7, 48

Force discloses the method as recited in claim 1 wherein the selection of the editor is made based on the editor's availability (e.g. col 6 ln 13-26).

14. Regarding claim 8, 49

Force discloses the method as recited in claim 1 wherein the selection of the editor is made based on the type and complexity of the work and the skill of the editor (e.g. col 6 ln 13-26).

15. Regarding claim 9 -

Force discloses the method as recited in claim 1 wherein the selection of the editor is made based on an order deadline supplied by the customer (e.g. col 6 ln 13-26).

16. Regarding claim 10 -

Force discloses the method as recited in claim 1 wherein selection of the editor is made by the provider notifying a plurality of editors about the requested modifications to the digital image and the price that will be paid to the editor to make those modifications and the first editor to accept the offer is selected (e.g. col 7 ln 6-34).

17. Regarding claim 11 -

Force discloses the method as recited in claim 1 wherein the provider determines the fee to be paid by the customer (e.g. col 7 ln 35-44).

18. Regarding claim 12 -

Force discloses the method as recited in claim 1 wherein the customer is charged a fee by the provider which is higher than the provider pays to the editor for the modifications to the digital image (e.g. col 7 ln 35-44).

19. Regarding claim 13, 40, 50, 57

Johnston discloses a method wherein customer is provided with an interface including: a region for displaying a rendering of the digital image and a region for inputting textual instructions (e.g. col 2 ln 43-col 3 ln 3).

20. Regarding claim 14, 33, 42

Johnston discloses a method as recited in claim 13 wherein said interface further includes an electronic drawing tool for adding electronic marks to the rendered digital image to indicate the location and/or type of modifications to be made (e.g. col 4 ln 5867).

21. Regarding claim 15, 31, 37

Johnston discloses a method wherein customer is provided with an interface which includes a list of selectable editing requests and which permits inputting of textual instructions for supplementing a selected editing request (e.g. col 3 ln 28-45).

22. Regarding claim 16, 43 -

Force discloses a method wherein after the image and instructions are transferred from the customer to the provider, the provider generates a cost estimate to perform the requested modifications (e.g. col 3 ln 36-47).

23. Regarding claim 17, 34

Force discloses a method as recited in claim 16 wherein the cost estimate is communicated to the customer for approval (e.g. col 3 ln 48-58).

24. Regarding claim 18, 32, 41 -

Force discloses a method as recited in claim 16 wherein the cost estimate is generated algorithmically (e.g. col 7 ln 50-55).

25. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another network.

26. It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to contract and bill for work contracted through the Internet in many different fields.

27. Claims 19-23 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Force (US 6,704,71681) in view of Johnston (US 5,546,528A).

28. Regarding claim 19, 51, 52, 53

Johnston discloses an user interface allowing a holder of a digital image to input instructions of how the image should be modified by an editor, said interface comprising: a region for displaying a rendering of the digital image; a region for inputting textual instructions; and an electronic drawing tool for adding electronic marks to the rendered digital image to indicate the location and/or type of modifications to be made (e.g. col 2 ln 43-col 3 ln 3).

29. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another

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network. Further, Johnston, does disclose, inter alia, graphics and art. (e.g. col 2 In 43- col 3 In 3). It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to make the graphic art process more user-friendly.

30. Regarding claim 20 -

Johnston discloses an interface as recited in claim 19 further including a selection of electronic shortcuts corresponding to conventional image manipulation instructions (e.g. col 3 In 28-45).

31. Regarding claim 21, 54 -

Johnston discloses an interface as recited in claim 20 wherein the shortcuts are combined with additional textual instructions (e.g. col 3 In 28-45).

32. Regarding claim 22 -

Force discloses an interface as recited in claim 19 including an algorithm for prioritizing the instructions based on efficiency (e.g. col 7 In 50-55).

33. Regarding claim 23 -

Johnston discloses an interface an electronic drawing tool is selected from the group consisting of a pencil, a stamp, an arrow and a boundary marker (e.g. col 3 In 28-45).

34. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another network.



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35. It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to contract and bill for work contracted through the Internet in many different fields.

36. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Force (US 6,704,716B1) in view of Johnston (US 5,546,528A).

37. Regarding claim 24 -

Johnston discloses a user interface allowing a holder of a digital image to input instructions of how the image should be modified by an editor, said interface comprising: a region displaying a list of selectable editing requests; and a region for inputting textual instructions for supplementing a selected editing request (e.g. col 2 ln 43-col 3 ln 3).

38. Regarding claim 25 -

Johnston discloses an interface as recited in claim 24 wherein at least some of the selectable editing requests are linked to more detailed editing requests so that if a particular request is selected, the user will be prompted to provide additional information (e.g. col 3 ln 28-45).

39. Regarding claim 26 -

Force discloses an interface wherein at least some of the selectable editing requests are linking to text and images that illustrate the nature of the editing request (e.g. col 3 ln 29-35).

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40. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another network.

41. It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to contract and bill for work contracted through the Internet in many different fields.

42. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Force (US 6,704,716B1) in view of Johnston (US 5,546,528A).

43. Regarding claim 27 -

Johnston discloses an user interface allowing a holder of a digital image to input instructions of how the image should be modified by an editor, said interface comprising: a region displaying a list of selectable editing requests, each such request providing a link to an associated display page related to that editing request; and a plurality of display pages related to the selectable editing requests, said display pages including questions related to the request and a region for inputting textual instructions for supplementing the editing requests (e.g. col 2 ln 43-col 3 ln 3).

44. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another network. Further, Johnston, does disclose, inter alia, graphics and art. (e.g. col 2 ln 43-col 3 ln 3). It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to make the graphic art process more user-friendly.

45. Regarding claim 28 -

Force discloses an interface wherein at least some of the selectable editing requests are linked to a separate page with text and images that illustrate the nature of the editing request (e.g. col 3 ln 29-35).

46. Although Force does not specifically mention artists and graphics, the steps involved may be applicable to any kind of work contracted over the Internet or another network.

47. It would be obvious to one of ordinary skill in the art to combine the teachings of Force and Johnston in order to contract and bill for work contracted through the Internet in many different fields.

48. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

#### Conclusion

49. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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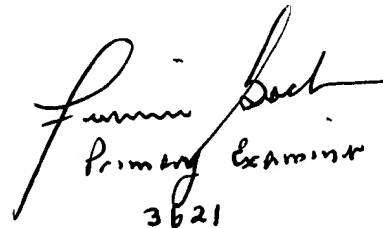
50. Quelene (US 6,453,306 B1) discloses an Internet commerce method and apparatus.

51. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

52. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

53. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Sumin Sach  
Primary Examiner  
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